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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,092	01/04/2005	Peter Josef Martin	280-04	7017

27569 7590 09/22/2006

PAUL AND PAUL  
2000 MARKET STREET  
SUITE 2900  
PHILADELPHIA, PA 19103

EXAMINER

WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/520,092

Applicant(s)

MARTIN, PETER JOSEF

Examiner

Gloria R. Weeks

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3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/10/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

***Election/Restrictions***

1. Applicant's election with traverse of claims 1-14 in the reply filed on July 10, 2006 is acknowledged. The traversal is on the ground(s) that there is no significant burden on the Examiner to examine both the product and process claims. This argument is found persuasive as the product claims are broad enough to be encompassed by the search of the method claims. However, should an amendment to the product claims render the product and process claims distinct such that a burden is placed on the Examiner to search and examine both inventions, an election by original presentation will be applied.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the packaging blank" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 claims a process for the production of a packaging, however it is unclear to the Examiner what language of the claim defines Applicant's invention. What specific steps define the process claimed by the Applicant?

Claim 17 recites the limitation "the filling machine" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 6-9, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Toth et al. (US 2001/0046930 a.k.a. USPN 5,971,266).

6. In reference to claims 1, 2, 6-9, 13 and 14, Katayama et al. discloses a packaging or blank formed from a flat packaging material (30) having: fold lines (48, 50, 58, 60, 134) and a symmetrical marking (156) having a mathematical correlation with the packaging material (30), the marking is recessed into the surface of the packaging material (30; column 5 lines 28-32).

7. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sampaolo et al. (USPN 5,971,266).

In reference to claims 15-18, Sampaolo et al. discloses a process for packaging a material, the process including the steps of: moving a web (139) of packaging material; applying fold lines (63, 73) and U-shaped (figure 15) perpendicular markings (50, 51) together (143); providing optical reading devices (165) to read the material web (139); shaping, filling and closing the material web (figure 16).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-16 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al. (USPN 6,079,188).

In reference to claims 1-6 and 8-13, Katayama et al. discloses a packaging or blank formed from a flat packaging material (W) having: fold lines (column 2 lines 38-43) and a marking having a mathematical correlation with the packaging material (W; column 4 lines 48-52). While Katayama et al. does not disclose the desired design pattern as claimed by applicant, it would have been obvious to one having ordinary skill in the art at the time of the invention to stamp straight perpendicular line patterns or any desired pattern, since column 6 lines 47-49 of Katayama et al. states that any specified design pattern can be applied to the packaging material.

10. Claims 7, 14, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al. (USPN 6,079,188) in view of Sommerfeldt (USPN 5,777,879).

Regarding claims 7 and 14, Katayama et al. discloses a packaging or blank having: a desired design stamped on the packaging material web (W), but does not disclose whether the design is flush, raised or recessed. Sommerfeldt teaches a packaging material web (2) having stamped markings (M) that project or recess from the surface of the material web (2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have an embossed marking on the packaging or blank material of Katayama et al. since column 4 lines 32-39 of Sommerfeldt states that projecting or recessing a marking on a continuous web of material is well known in the art for the purpose of detection by a sensor device.

With respect to claims 15, 17 and 18, Katayama et al. discloses a process for packaging a material, the process including the steps of: moving a web (W) of packaging material; applying

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fold lines (column 2 lines 38-43) and a marking (a; figure 4); providing optical reading devices (19); shaping, filling and closing the material web (W; figure 1). Katayama et al. discloses a packaging or blank having: a desired design stamped on the packaging material web (W), but does not disclose whether the design is flush, raised or recessed. Sommerfeldt teaches a packaging material web (2) having stamped markings (M) that project or recess from the surface of the material web (2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have an embossed marking on the packaging or blank material of Katayama et al. since column 4 lines 32-39 of Sommerfeldt states that projecting or recessing a marking on a continuous web of material is well known in the art for the purpose of detection by a sensor device.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

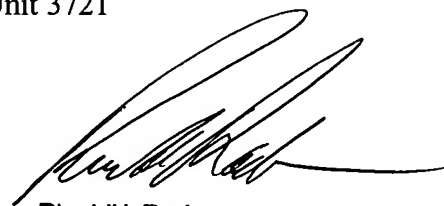
- Allowed Files & Publication (888) 786-0101
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- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199



grw

September 15, 2006

Gloria R. Weeks  
Examiner  
Art Unit 3721



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